Toffoloni v. LFP Publishing Group, LLC
Doc. 73 Att. 8

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA

MAUREEN TOFFOLONI,	)	
as Administrator and Personal	)	
Representative of the ESTATE	)	
OF NANCY E. BENOIT,	)	
	)	CASE NO. 1:08-cv-00421-TWT
Plaintiff,	)	
	)	
vs.	)	
	)	
LFP PUBLISHING GROUP, LLC,	)	
d/b/a Hustler Magazine, et al,	)	
	)	
Defendant.	)	

BRIEF IN SUPPORT OF DEFENDANT'S MOTION FOR PROTECTIVE ORDER

EXHIBIT G

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

MAUREEN TOFFOLONI, as Administrarix and Personal Representative of the ESTATE OF NANCY E. BENOIT, Plaintiff, v. LFP PUBLISHING GROUP, LLC, d/b/a Hustler Magazine, MARK SAMANSKY, an Individual, and other distributors and sellers of, Hustler Magazine, as Defendants X, Y, and Z, Defendants.	)))))))))))))))))	CIVIL ACTION FILE NO. 1:08-CV-0421-TWT

NOTICE OF DEPOSITION

TO: LFP Publishing Group, LLC
c/o S. Derek Bauer, Esq.
McKenna, Long & Aldridge
303 Peachtree Street, N.E.
Suite 5300
Atlanta, Georgia 30308

Please take notice that the deposition of LFP Publishing Group, LLC (hereinafter "Deponent") will be taken by Plaintiff at the offices of McKenna, Long

& Aldridge, 303 Peachtree Street, N.E., Suite 5300, Atlanta, Georgia 30308, on the 20th day of January, 2010, beginning at 10:00 a.m. before an officer duly authorized by law to administer oaths. The deposition will continue from day to day until its completion.

This deposition will be taken pursuant to the Federal Rules of Civil Procedure Rule 30(b)(6) such that Deponent shall designate one or more officers, directors, managing agents, or other persons authorized to testify on its behalf with respect to the matters set forth below.

Deponent shall notify Plaintiff in advance of the name and position of each individual that it is designating to testify with respect to each of the matters set forth below.

This deposition will be taken upon oral examination by Defendants, through counsel, for the purposes of discovery, use as evidence, and all purposes authorized by the Federal Rules of Civil Procedure. Deponent is by means of this Notice afforded the opportunity to be and appear at said deposition.

The matters with respect to which Deponent shall be deposed are as follows:

(1)

Each and every instance, including, but not limited to, magazines videos, DVDs, internet sites, content, movies, or any other medium in which the Defendant, or any parent company, partner, agent, affiliate, or licensee of any Defendant published, broadcast, displayed, or otherwise disseminated or made available to the public nude and/or partially nude images (hereinafter the "images") of Nancy Elizabeth Benoit (hereinafter "Ms. Benoit").

(2)

All money, revenue, fees, income or other things of value received by Defendant, as the result of sales or licenses of any media containing images of Ms. Benoit.

(3)

The net worth of Defendant LFP Publishing Group, LLC for the years ending 2006, 2007, 2008, and 2009.

(4)

The net worth of L.F.P., Inc. for the years ending 2006, 2007, 2008, and 2009.

(5)

Each and every instance in which Defendants' agents, employees, partners, or licensees discussed or communicated in any way about the subject of the Defendants' plans to publish or disseminate, and the publishing of the images of Ms. Benoit. This topic includes all internal and external emails, memoranda, facsimiles, and notes of oral discussions by, among, and between Defendants' agents, employees, partners, or licensees, wherever located, concerning the subject of Defendants' acquisition of, payment for, publication, licensing and/or revenues from and potential liability for the dissemination of nude and partially nude images of Ms. Benoit.

(6)

The amount of money or other things of value Defendant LFP Publishing Group, LLC or any related person or entity paid Mark Samansky for nude and/or partially nude images of Ms. Benoit.

(7)

Each and every instance in 2006, 2007, 2008 and 2009, when the Defendant LFP Publishing Group, LLC or any affiliated company, paid a model, celebrity, actor or other performer or private individual for the use of nude images of any such persons, and the amount paid to each such person.

(8)

Profit and loss and/or operating statements for LFP Publishing Group, LLC for each month in calendar years 2006, 2007, 2008, and 2009.

(9)

Profit and loss and/or operating statements for L.F.P., Inc. for each month in calendar years 2006, 2007, 2008, and 2009.

(10)

A statement of net worth or financial statement for LFP Publishing Group, LLC d/b/a "Hustler Magazine" for the years 2006, 2007, 2008, and 2009.

(11)

A statement of net worth or financial statement for L.F.P., Inc. for the years 2006, 2007, 2008, and 2009.

(12)

The financial and/or other compensation paid by Defendant LFP Publishing Group, LLC or any related or affiliated company for the 50 highest paid models, celebrities or private individuals for posing for nude images of said person, published in each edition of Hustler Magazine for 2006, 2007, 2008, and 2009.

(13)

The reasons for the difference between the Canada and American covers of Hustler Magazine, including the timing, strategy, etc. for the differences.

Respectfully submitted December 18, 2009.

RICHARD P. DECKER
State Bar of Georgia #215600
F. EDWIN HALLMAN, JR.
State Bar of Georgia #319800
RICHARD A. WINGATE
State Bar of Georgia #770617
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

MAUREEN TOFFOLONI, as Administrarix and Personal Representative of the ESTATE OF NANCY E. BENOIT, Plaintiff, v. LFP PUBLISHING GROUP, LLC, d/b/a Hustler Magazine, MARK SAMANSKY, an Individual, and other distributors and sellers of, Hustler Magazine, as Defendants X, Y, and Z, Defendants.	)))))))))))))))))	CIVIL ACTION FILE NO. 1:08-CV-0421-TWT

CERTIFICATE OF SERVICE

This is to certify that on December 18, 2009, I have served the following counsel in the foregoing matter with a Notice of Deposition by placing a copy of same in the United States Mail in a properly addressed envelope with adequate postage thereon to:

Barry J. Armstrong, Esq.
James Clifton Rawls, Esq.
S. Derek Bauer, Esq.
Darrell Jay Solomon, Esq.
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